

STAFF REPORT

SUBJECT: Measure A Ordinance Draft

MEETING DATE: April 17, 2008 **AGENDA ITEM:** 6E

STAFF CONTACT: Steve VanDenburgh

RECOMMENDATION: Receive Draft Measure A Ordinance.

DISCUSSION:

When county voters decide this November whether to approve Measure A and extend the ½ percent sales tax for transportation for an additional 30 years, they will actually be deciding whether to approve an ordinance which gives the extension the weight of law.

Attached is a draft of the ordinance that will be included in the ballot pamphlet that each registered voter will receive from the County Elections Office prior to the election. The ballot measure containing the ordinance includes as an attachment, the Investment Plan approved by the SBCAG board which identifies the transportation projects and programs that will be implemented if Measure A is approved by a two-thirds majority of county voters.

Much of the ordinance language is common to transportation sales tax ballot measures throughout the state. This common language governs the levying and collection of a sales tax (technically, a “retail transaction and use tax”) by a Local Transportation Authority and expenditure of revenues according to an investment plan, which is an exhibit to the ordinance. The ordinance also includes other standard financial provisions such as the ability of the Authority (SBCAG) to issue bonds. Finally, sections of the ordinance have been included by SBCAG staff specifically to address our county’s needs, including:

Section 17 Investment Plan, Adoption, Amendment and Updates
Section 18 Local Program of Projects
Section 19 Authority Program of Projects
Section 22 Advisory Committees
Section 23 Authority Subregion Committees
Section 25 Audit Provisions

The draft ordinance has received substantial review and input from SBCAG members, community organization leaders and the public through the the North County and South Coast Measure D Policy Development Committees. The committees reviewed and commented on the draft ordinance in February and March. Two changes to the ordinance were made as a result of the March 12 North County meeting that the South Coast committee, which completed its work on February 12, did not have an opportunity review or discuss. Section 17.D Investment Plan, has been re-written to require that at least every 10 years the Investment Plan be reviewed by SBCAG to ensure it is distributing funds equitably throughout the county. Section 27 Maintenance of Effort has been changed so that local agency non-measure D expenditures on

Member Agencies

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streets and roads is tied to the rate of growth (or decline) of Measure A revenues rather than the Caltrans construction cost index.

The draft is presented at this time to provide the Board with an opportunity to review the ordinance as it has emerged from the North and South committee meetings and make additional changes, if any, before it returns in final form in May for Board adoption. It is also an opportunity for the public to review and comment on the draft document before the May adoption.

RECOMMNDATION

Receive the draft Measure A ordinance.

COMMITTEES

The ordinance was discussed by the North County and South Coast Policy Development Committees on February 13 and by the North County Committee again on March 12.

**AN ORDINANCE OF THE
SANTA BARBARA COUNTY LOCAL TRANSPORTATION AUTHORITY
IMPLEMENTING THE
ROAD REPAIR, TRAFFIC RELIEF AND TRANSPORTATION SAFETY MEASURE**

ORDINANCE No. 5

The Santa Barbara County Local Transportation Authority does hereby ordain as follows:

Section 1. Title. This ordinance shall be known as the Santa Barbara County Road Repair, Traffic Relief, and Transportation Safety Measure.

Section 2. Purpose. This ordinance is adopted to achieve the following, among other purposes, and directs that provisions hereof be interpreted in order to accomplish those purposes:

A. To establish a local funding source for road repair, traffic relief, and transportation safety improvements set out in detail in the Transportation Investment Plan ("Investment Plan"), which is Exhibit A of this ordinance. The Investment Plan is hereby adopted as the County Transportation Expenditure Plan pursuant to California Public Utility Code Section 180206 for the expenditure of revenues expected to be derived from the tax imposed pursuant to this ordinance.

B. To continue to impose a retail transaction and use tax of one-half of one percent (1/2%), in the incorporated and unincorporated territory of the County of Santa Barbara ("District") from April 1, 2010 until March 31, 2040 in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 180050 et.seq. of the Public Utilities code which authorizes the Santa Barbara County Local Transportation Authority ("Authority") to adopt this ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the continuation of the tax at an election called for that purpose.

C. To authorize the issuance of bonds to finance projects included in the Investment Plan as part of this ordinance.

D. To establish an appropriations limit for the Authority.

Section 3. Existing Ordinance. Nothing in this ordinance is intended to modify, repeal, or alter ordinances previously adopted by the Authority. The provisions of this ordinance shall apply solely to the retail transactions and use tax adopted herein. The provisions of previously adopted ordinances, including the tax rate, expenditure plan, procedures for adoption and amendment of the expenditure plan and other operative provisions shall remain in effect through March 31, 2010. The Existing Tax (which will expire on March 31, 2010) and any obligations or bonded indebtedness arising thereunder shall be deemed to continue and shall be in full force and effect until March 31, 2010. Revenues from tax levied but not yet collected on March 31, 2010 shall continue to be due and payable until collected.

Section 4. Continuation of Transactions and Use Tax. In addition to any other taxes authorized by law there is hereby continued in the District, in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code and Division 19 (commencing with Section 180000) of the California Public Utilities Code, a transactions and use tax at the rate of one-half of one percent (1/2%) for a period not to exceed thirty years from April 1, 2010, in addition to any existing or future authorized state or local transactions and use tax. There shall be no concurrent assessment of the Existing Tax and the tax to be imposed pursuant to this Ordinance. The provisions of 7261 and 7262 of the Revenue and Taxation Code unless specifically modified by this ordinance are incorporated herein by reference as though fully set forth herein.

Section 5. Operative Date. "Operative Date" means the first day of the first calendar quarter commencing more that 110 days after the adoption of this ordinance by two-thirds of the electors voting on the measure. Although this ordinance shall be deemed to be operative on the Operative Date, the new tax rate, term,

Investment Plan and related tax and fiscal provisions of this ordinance shall not be in effect until April 1, 2010, except as modified below in the case of new bond issuance. To the extent that the Authority may desire prior to April 1, 2010 to issue bonds secured by future revenues from the new tax provisions adopted herein, the provisions of this ordinance shall be operative at said earlier date for application to said revenues and bonds, allocations of any funds derived from said bonds, development of guidelines for use of said bond revenues, administration of the Investment Plan adopted hereunder, or preparation of a Strategic Plan.

Section 6. Contract with State. Prior to the Operative Date, the Authority shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Authority shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 7. Transactions Tax Rate. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the District at the rate of one-half of one percent (1/2%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said District on and after April 1, 2010.

Section 8. Place of Sale. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 9. Use Tax Rate. An excise tax is hereby imposed on the storage, use or other consumption in the District of tangible personal property purchased from any retailer on and after April 1, 2010 for storage, use or other consumption in said District at the rate of one-half of one percent (1/2%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 10. Adoption of Provisions of State Law. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Section 11. Limitations on Adoption of State Law and Collection of Use Taxes. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this Authority shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this Authority or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while

such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "District" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 12. Permit Not Required. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 13. Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the District which is shipped to a point outside the District, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the District shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-District address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-District and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this sales tax ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period

of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this District of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date of this sales tax ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the District shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the District or participates within the District in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary, or person in the District under the authority of the retailer.

7. "A retailer engaged in business in the District" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the District.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 14. Compliance with California Environmental Quality Act (CEQA). Pursuant to the State CEQA Guidelines section 15378(b)(4), adoption of this retail transactions and use tax ordinance and expenditure plan (*Investment Plan, Appendix A*) as a government funding mechanism, is not a project subject to the requirements of CEQA. Prior to commencement of any project included in the Investment Plan, any necessary environmental review required by CEQA shall be completed.

Section 15. Receipt of Fair Share State and Federal Transportation Funds. No revenues as provided for in this section shall be allocated for any State Highway project if the Authority adopts a finding that the Santa Barbara County region is not receiving, at a minimum, its fair share of funds from the State of California. The determination of fair share shall consider all relevant factors including the degree to which the Santa Barbara County region is receiving the statutory county minimum funding for all budgeted, expended, and programmed State and federal transportation funds. The policies and project approval actions of the California Transportation Commission and California Department of Transportation shall be subject to review, as well, to determine whether the Santa Barbara County region is receiving full consideration in the allocation of State and federal funding. A finding may be made at any time at the Authority's discretion. If, prior to the start of any fiscal year, the Authority makes a finding that the region is not in receipt of a fair share of State and federal funding the Authority may amend the Investment Plan to reallocate revenues pursuant to Section 19.

Section 16. Execution of Duties. The Authority may engage, contract with, employ and compensate any public or private agency, party, contractor or professional, in accordance with the Public Contract Code and/or any of the provisions for public employment of professional services for public agencies, for the planning, finance, approval, design, construction, acquisition of right of way, maintenance, operation, control and repair of any road, highway, bus, rail or other transportation facility. However, the Authority shall not be responsible for the maintenance or operation of any State highway facilities following construction contract completion.

Section 17. Investment Plan -- Adoption, Amendments and Updates. The Transportation Investment Plan, Exhibit A hereto, is hereby adopted as the County Transportation Expenditure Plan ("Expenditure Plan") for the expenditure of revenues expected to be derived from the tax imposed pursuant to this Ordinance, in accordance with California Public Utilities Code Section 180206.

A. The Authority may propose amendments to the Investment Plan to provide for the use of additional federal, state and local funds, to account for unexpected revenues, to add or delete a project or program from the plan, to maintain consistency with the Santa Barbara County Regional Transportation Plan, or to take into consideration unforeseen circumstances. An amendment to the Investment Plan must be passed by a two-thirds majority of the Authority by a roll call vote. The Authority must hold a formal, public hearing on the matter, which will be noticed by publication and mailing to interested parties, before adoption of any amendment to the Investment Plan.

B. The Authority may not act on an amendment to the North County Subregion Program or the South Coast Subregion Program unless it has been recommended to the Authority for approval by a majority vote of the respective Authority Sub-Region Committee established in Section 23 of this ordinance. Should an Authority Sub-Region Committee be unable to reach a majority approval of a proposed amendment, or is otherwise unable to take necessary action, within 60 days of the date the matter is referred to the Authority Sub-Region Committee, the Authority may by a two-thirds vote approve the amendment to the Subregion Program without the majority approval of the Sub-Region Committee.

C. Subsequent to the adoption of any amendment to the Investment Plan, the Authority shall notify the Board of Supervisors, the city council of each city in the county, and the Santa Barbara Metropolitan Transit District of the proposed amendment(s) and provide each entity with a copy of the proposed amendment(s). Pursuant to Public Utilities Code 180207, proposed amendment(s) shall become effective 45 days after notice is given unless a local jurisdiction or the Santa Barbara Metropolitan Transit District, subsequent to a majority vote by its policy body, notifies the Authority in writing of its intent to appeal the Authority's approval of the Investment Plan amendment. Such written notice shall state the reason for the appeal. The agency intending to appeal the proposed amendment(s) will have 45 days from the date notice is given to the Authority to obtain resolutions supporting the appeal of the amendment(s) from a majority of the cities representing a majority of the population residing within the incorporated areas in the county and from the Board of Supervisors. If a jurisdiction does not obtain the necessary resolutions supporting the appeal within 45 days of the date notice is given, the Authority's amendment(s) to the Investment Plan shall take effect. If the necessary resolutions are obtained within 45 days from the date notice is given, then the amendment(s) shall be rescinded by the Authority.

D. The Investment Plan, ~~including North County Subprogram prescribed percentages for alternative modes,~~ shall be ~~updated~~ reviewed by the Authority at least every ten years that the sales tax is in effect to ensure it is providing an equitable distribution of funds throughout the county to reflect current and changing priorities and needs in the County, as defined by the duly elected local government representatives on the Authority Board. Any changes to the Plan resulting from this review must be adopted according to the amendment process described above, in accordance with current law in effect at the time of the update.

Section 18. Local Program Of Projects. Each local jurisdiction shall annually adopt, after holding a public hearing, a five-year program of projects including information about each of the projects to be funded with Local Street and Transportation Improvement Program revenues allocated according to the Investment Plan. Local agencies shall submit their program of projects to the Authority for approval pursuant to this section. The program of projects shall be in a format specified by the Authority and shall include project location, scope, schedule, cost and funding sources to ensure that the program can be easily understood by members of the public. The program of projects shall also include a detailed description of local jurisdiction expenditures of Local Street and Transportation Improvement Program funds from the previous fiscal year, including expenditures on alternative mode projects as defined in the Investment Plan. The purpose of requiring previous fiscal year expenditures to be documented in the program of projects is to allow the Authority to determine if the local agency is meeting its prescribed expenditure percentages, if any, on alternative modes and to allow the Authority to prepare a comprehensive report to the Citizens Oversight Committee and the public on the expenditure of funds generated by this ordinance. After a noticed public hearing, the Authority shall adopt the program of projects submitted by each local jurisdiction provided that it is consistent with this ordinance and the attached Investment Plan, and prior to releasing to the local jurisdiction its share of local program funding for the first fiscal year in the program of projects. Expenditures may be made on projects using local program funds only if they are included in the Authority's most recently adopted program of projects. To the maximum extent feasible, Local Street and Transportation Improvement Program expenditures shall be consistent with complete streets practices whereby new roads and reconstructed roads shall safely accommodate pedestrians, bicyclists, transit users and motorists except where such accommodation would be infeasible, illegal, or where the cost would be excessively disproportionate to the need or probable use.

A local jurisdiction may request that the Authority amend its program of projects. Amendments may be made by the Authority by a majority vote if the amendment does not require an Investment Plan amendment. Amendments to a program of projects that require an Investment Plan amendment shall be approved pursuant to Section 17.

All projects to be funded with revenues made available under this ordinance must be consistent with the Regional Transportation Plan, any applicable congestion management plans and CEQA.

Section 19. Authority Program of Projects. The Authority shall annually adopt a five-year regional program of projects to be funded with all estimated revenues excluding those revenues estimated for the Local Street and Transportation Improvement Program. The regional program of projects shall include the five-year program of projects adopted by the Santa Barbara Metropolitan Transit District including information about each of the projects to be funded by the South Coast Transit Operating and Capital Programs allocated according to the Investment Plan. A public hearing shall be held by the Authority prior to approval of the regional program of projects. Expenditures may be made on regional projects with the revenues made available under this section if they are included in the most recently adopted regional program of projects. The Authority may amend the regional program of projects by a majority vote if the amendment does not require an Investment Plan amendment. Amendments to the Authority program of projects that require an Investment Plan amendment shall be approved according to Section 17.

Section 20. Strategic Plan. The Authority will prepare a Strategic Plan, which it will update at least every five years. The Authority will develop the initial strategic plan by November 1, 2010. The Strategic Plan will be the master document for delivery of the Investment Plan projects and programs and can be amended at any time. The Strategic Plan may be amended by a majority vote of the Authority, however, amendment of the

Strategic Plan shall not serve to amend provisions of the Investment Plan. To the extent that any amendment of the Strategic Plan would serve to modify, cancel, reallocate funds or otherwise change a provision of the Investment Plan, it shall require approval according to Section 20. The purposes of the Strategic Plan are to define the scope, cost, and schedule of each project, identify accomplishments and critical issues, lists a set of Investment Plan amendments to these projects, details the revenue projections and possible financing tools needed to deliver the Investment Plan, gather into one document the policies and procedures adopted to implement the Investment Plan.

Section 21. Amendments to this Ordinance.

A. With the exception of Sections 4, 7, 9, 35, and 36 which require a vote of the electors of the County of Santa Barbara to amend, this ordinance may be amended by the Authority to further its purposes, with two-thirds of the members of the Authority concurring at any regular or special meeting called for the purpose. The Authority must hold a formal, noticed public hearing on the matter before formal adoption of any amendment to the ordinance. Notice of the public hearing shall be published pursuant to Government Code section 6062.

B. Subsequent to any action by the Authority to amend this ordinance, the Authority shall notify the Board of Equalization, the Board of Supervisors, the city council of each city in the county, and the Santa Barbara Metropolitan Transit District board of directors of the proposed amendment(s) and provide each entity with a copy of the proposed amendment(s). Pursuant to Public Utilities Code 180207, proposed amendment(s) shall become effective 45 days after notice is given unless a local jurisdiction or the Santa Barbara Metropolitan Transit District, subsequent to a majority vote by its policy body, notifies the Authority in writing of its intent to appeal the Authority's approval of the Investment Plan amendment. Such written notice shall state the reason for the appeal. The agency appealing the proposed amendment(s) will have 45 days from the date notice is given to the Authority to obtain resolutions supporting the appeal of the amendment(s) from a majority of the cities representing a majority of the population residing within the incorporated areas in the county and from the Board of Supervisors. If a jurisdiction does not obtain the necessary resolutions supporting the appeal within 45 days of the date notice is given, the Authority's amendment(s) to the ordinance shall take effect. If the necessary resolutions are obtained within 45 days from the date notice is given, then the amendment(s) shall be rescinded by the Authority.

Section 22. Advisory Committees. The following advisory committees are established to assist the Authority in the administration on the Investment Plan and this Ordinance.

A. The Citizens Oversight Committee will be appointed by the Authority to help ensure accountability to voters regarding the expenditure of funds and to assist the Authority in ensuring that all provisions, requirements and voter mandates specified in the Investment Plan and Ordinance are properly carried out. The committee will serve in an advisory capacity to the Authority and will be comprised of an appropriate balance of transportation users representing the geographic, social, cultural, and economic interests in the county. Each Subregion Committee established in Section 23 of this ordinance shall nominate four representatives for appointment by the Authority. Three "at large" representatives shall be nominated and appointed by the Authority. Employees and elected officials of local governments in Santa Barbara County, employees or policy board members of transit districts in Santa Barbara County, and persons with a personal financial interest in a project or program in the Investment Plan are ineligible to serve as representatives. The Authority must appoint the committee by April 1, 2010 or at least 90 days prior to the adoption of a Strategic Plan, whichever date is sooner. The committee will determine the frequency of its meetings and be provided with administrative and technical assistance by the Authority in conducting its business.

B. The Technical Advisory Committee will consist of a representative from the public works department from each city and the County of Santa Barbara, the Authority, the Santa Barbara Metropolitan Transit District and District 5 of the California Department of Transportation (Caltrans). Representatives shall serve at the will and pleasure of their appointing authority. The committee shall review, comment upon, and make recommendations on matters referred to it by the Authority.

Section 23. Authority Subregion Committees. The following Committees of the Authority are established to assist the Authority in implementing the Investment Plan and Ordinance.

A. The North County Subregion Committee will consist of the elected representatives appointed to the Authority by the cities of Buellton, Solvang, Lompoc, Guadalupe and Santa Maria, and Supervisors representing the 3rd, 4th and 5th supervisorial districts. Caltrans District 5 will be an ex-officio, non-voting, member of the committee. The Subregion Committee will recommend to the Authority, by majority vote, the policies and guidelines required to implement the North County Subregion Program of the Investment Plan that are not specified in this ordinance and will make recommendations to the Authority regarding the projects to be funded by the North County Subregion's discretionary programs, excluding the Local Street and Transportation Improvement Program. The Authority may accept or reject the Subregion Committee's recommendations but may not change the Subregion Committee's recommendations except but by a 2/3 majority vote. The Subregion Committee must also approve, by majority vote, any amendment to the North County Subregion Program prior to an Authority vote on the amendment pursuant to Section 17.B.

B. The South Coast Subregion Committee will consist of the elected representatives appointed to the Authority by the cities of Goleta, Santa Barbara, Carpinteria, and Supervisors representing the 1st, 2nd, and 3rd supervisorial districts. Caltrans District 5 and the Santa Barbara Metropolitan Transit District will be ex-officio, non-voting members of the committee. The Subregion Committee will recommend to the Authority, by majority vote, the policies and guidelines required to implement the South Coast Subregion Program of the Investment Plan that are not specified in this ordinance and will make recommendations to the Authority regarding the projects to be funded by the South Coast Subregion's discretionary programs, excluding the Local Street and Transportation Improvement Program. The Authority may accept or reject the Subregion Committee's recommendations but may not change the Subregion Committee's recommendations except but by a 2/3 majority vote. The Subregion Committee must also approve, by majority vote, any amendment to the South Coast Subregion Program prior to an Authority vote on the amendment pursuant to Section 17.B.

Section 24. Public Participation and Information. Meetings of the Authority Board, Subregion, Citizens Oversight and Technical Advisory committees shall be open to the public pursuant to the Ralph M. Brown Act, Government Code Section 54950 et seq. The planning and administration of this ordinance and the Investment Plan and operations of the Authority will be conducted in a transparent manner to encourage public participation. The Authority will ensure that there is accountability to the public in carrying out the purposes of this ordinance. A report by the Authority on the funding of projects and programs, local agency usage of required alternative transportation expenditure percentages, delivery of projects, financial status and projected schedule for future projects shall be presented in a public hearing at least annually. All such reports and records of the Authority shall be made available to the public and shall be on file in the Authority offices.

Section 25. Audit Provisions. No less than annually, the Authority shall conduct and approve an independent fiscal audit of the expenditure of all revenues raised by this ordinance. The audit, which shall be made available to the public and the Citizens Oversight Committee, shall report on evidence that the expenditure of revenues is in accordance with the Investment Plan. In addition, the audit shall determine that Maintenance of Effort requirements as set forth in Section 27 are being met. The audit shall also insure that no more than one percent (1%) of total retail transaction and use tax expenditures is used for administrative staff salaries and benefits in implementing this Investment Plan.

Section 26. Cooperative Fund Agreements. To maximize the effective use of funds, revenues may be transferred or exchanged between or among jurisdictions. Jurisdictions receiving funds may, by annual or multi-year agreement, exchange funds provided that the percentage of funds allocated as provided in the Investment Plan is maintained over the duration of the period of time the tax is imposed. Agreements to exchange funds, including fund repayment provisions, must be approved by the Authority and shall be consistent with all rules adopted or approved by the Authority relating to such exchanges. The Authority may exchange revenues for State or federal funds allocated or granted to any public agency within or outside the area or jurisdiction of the Authority to maximize effectiveness in the use of the revenues. Such federal or State funds shall be distributed in the same manner as revenues derived from this ordinance. The Authority

shall maintain for public review an accounting of all balances that are subject to cooperative agreements approved pursuant to this section.

Section 27. Maintenance of Effort. It is the intent of the Legislature and the Authority that revenues provided from this sales tax be used to supplement existing local revenues being used for the purposes set forth in the Investment Plan. Each local agency receiving revenues pursuant to the Investment Plan shall annually maintain an expenditure of local discretionary funds for street and road purposes which is no less than that reported in the State Controller's Annual Report of Financial Transactions for Streets and Roads for the Fiscal Year 2007-2008 and adjusted annually ~~for inflation using the Caltrans Construction Cost Index~~ by the percentage change in the amount of retail transaction and use tax receipts collected through the imposition of this measure. If any local agency had extraordinary local discretionary fund expenditures for fiscal year 2007-2008, it may, subject to the approval of the Authority, use as a base for determining the required minimum level of local discretionary funds, the average amount of such funds reported to the State Controller for the three year period of fiscal year 2005-2006 through 2007-2008. The Authority shall not allocate any revenues pursuant to this ordinance to any eligible local agency in any fiscal year until that local agency has certified to the Authority that it will include in its budget for that fiscal year an amount of local discretionary funding for streets and roads purposes at least equal to the minimum Maintenance of Effort required by this Section. An annual, independent audit shall be conducted to verify that the Maintenance of Effort requirements were met. Any local agency which does not meet its Maintenance of Effort requirements in any given fiscal year, shall have its funding reduced in a following year by the amount by which the expenditure of the agency for such purposes was less than its required level. Any local streets and roads revenues not allocated pursuant to these Maintenance of Effort requirements shall be redistributed to the remaining jurisdictions according to their share of the total County population, excluding the agency who has failed to meet its requirements, and excluding its share of population.

Section 28. Private Sector Funding. Revenues provided from this sales tax shall not be used to replace private developer funding which has been or would ordinarily be committed for any project under prevailing law, regulation or administrative practice.

Section 29. Administrative Expenses. Revenues may be expended by the Authority for salaries, benefits, overhead, technical, auditing and legal services and for those services including contractual services, necessary to administer and implement the Investment Plan and revenue allocations under this ordinance. However, in no case shall the Authority expend more than one percent (1%) of the funds generated by the sales tax for salaries and benefits of its staff, as provided in California Public Utilities Code Section 180109(b). The cost of performing or contracting for project-related work shall be paid from the revenues allocated to the appropriate purpose, as set forth herein.

Section 30. Establishment of Separate Accounts – Interest. Each jurisdiction receiving Local Street and Transportation Improvement Program funds and the Santa Barbara Metropolitan Transit District shall deposit said funds in a separate Transportation Improvement Account. Interest earned on funds allocated pursuant to this ordinance shall be expended only for the purposes for which the funds were allocated.

Section 31. Bonding Authority. Upon voter approval of this ordinance, the Authority shall have the authority to issue limited tax bonds payable from the proceeds of the sales tax to accelerate the construction of needed transportation improvements and provide other funds needed to accomplish the projects and programs specified in the Investment Plan. The Authority, in allocating the annual revenues, shall meet all debt service requirements prior to allocating funds for other projects, whether they be Authority projects, Subregional or Local projects. "Limited tax bonds" means indebtedness and securities of any kind or class, including, but not limited to bonds, notes, revenue anticipation notes, commercial paper and certificates of participation. The authority to issue bonds hereunder shall include the authority to issue bonds on behalf of the Authority or any or all of its member agencies or the Santa Barbara Metropolitan Transit District. The Authority shall maintain for public review an accounting of all bonds issued pursuant to this section.

Section 32. Revenue and Taxation Code Amendments. All statutory amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and

all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 33. Enjoining Collection Forbidden. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the Authority, or against any officer of the State or the Authority, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 34. Severability. If any section, part, clause or phrase or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. Should any provision of this ordinance for any reason be held invalid or unenforceable by a court of competent jurisdiction, that holding shall not affect the validity or enforceability of the remaining provisions, or the Existing Tax, and the Authority declares that it would have passed each part of this ordinance irrespective of the validity of any other part.

Section 35. Establishment of Appropriations Limit. Article XIII (B) of the California Constitution requires that certain governmental entities, including the Authority, establish an annual appropriations limit. The maximum annual appropriations limit of the Authority is established at \$200 million. All expenditures of the transaction and use tax continued in Section 4 are subject to the appropriations limit of the Authority.

Section 36. Termination Date. The authority to levy the tax imposed by this ordinance shall expire March 31, 2040. Taxes due on said date shall remain due until collected.

Section 37. Call for Election. The Authority shall request by adoption of a Resolution that the Board of Supervisors of the County call an election at which the adoption of this ordinance shall be proposed to the voters of Santa Barbara County.

Passed, approved and adopted by the Santa Barbara County Local Transportation Authority this ____ day of 2008, by the following vote:

Ayes:	Noes:
Abstentions:	Absent:

Brooks Firestone
Chair, Santa Barbara County Local Transportation Authority

Attest:

James Kemp, Secretary

Approved as to Form
Daniel Wallace
Santa Barbara County Counsel

By: _____
Kevin E. Ready, Sr., Senior Deputy

Exhibit A to
Santa Barbara County Local Transportation Authority
Ordinance No. 5-01

Transportation Investment Plan